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Grain and Feed

Court Upholds Anti-Trust Ruling Against VPSS 2007

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Report Highlights:

On October 16, 2007, the Federal Anti-monopoly Service of the Russian Federation announced that the Moscow Court of Arbitration ruled in its favor in an anti-trust dispute with the Federal Service for Veterinary and Phytosanitary Surveillance (VPSS). The Moscow Court of Arbitration upheld the Federal Anti-Monopoly Service's ruling that cited VPSS for violation of the Federal Law "On Protection of Competition". The ruling should open the market for certification licensing and could reduce overhead expenses for handling bulk commodities.

Includes PSD Changes: No
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Trade Report
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Executive Summary

On October 16, 2007, the Federal Anti-monopoly Service of the Russian Federation announced that the Moscow Court of Arbitration ruled in its favor in an anti-trust dispute with the Federal Service for Veterinary and Phytosanitary Surveillance (VPSS). The Moscow Court of Arbitration upheld the Federal Anti-monopoly Service's ruling that cited VPSS for violation of the Federal Law "On Protection of Competition". The ruling should open the market for certification licensing and could reduce overhead expenses for handling bulk commodities. As a result of the Moscow court's decision, VPSS must register independent surveyors to certify grain quality, thus losing its monopoly on certification licensing.

History

On October 31, 2006, four grain surveying companies filed a petition with Russia's Federal Anti-monopoly Service against Russia's Federal Service for Veterinary and Phytosanitary Surveillance (VPSS).¹ In their petition the companies accused VPSS of holding illegal monopoly power in the market for grain quality certification licenses.

The four companies, combined, certify the quality of 80 percent of Russia's grain exports based on international certification standards. Their attempts to receive VPSS accreditation, all of which failed, began in November 2005, several months after the Russian government passed Resolution #491 on August 4, 2005, that allowed independent companies to certify grain. On January 29, 2007, Russia's Federal Anti-monopoly Service found VPSS in violation of Article 15 of Russia's Federal Law "On Protection of Competition", and ordered VPSS to begin certifying independent surveyors. VPSS appealed the decision to the Moscow Court of Arbitration, which deliberated for more than 18 months before upholding the Federal Anti-monopoly Service's original finding.

The Moscow Court of Arbitration issued its ruling on October 15, 2007.

A copy of the Federal Anti-monopoly Service's Russian-language press release on its decision can be seen on the World Wide Web at <http://www.lenta.ru/news2/2007/10/01/fas/>. The decision refers to "baseless obstacles to operation of businesses, forcing of the businesses to conclude contracts in priority order, and limiting the choice by commodity purchasers of businesses providing such commodities" (i.e., artificially restricting competition) in Volgograd, Voronezh, Ryazan, Rostov, Tver, Ulyanovsk, and Chelyabinsk oblasts.

Scope of VPSS's Certification and Fees

According to sources, VPSS used its leverage as a monopoly to double or triple the commodity certification fees in 2006. For example, since April 2006, wheat certification fees increased from 9 rubles per metric ton to almost 18 rubles per metric ton, and certification for sunflower seed increased from 9 rubles per metric ton to 27 rubles per metric ton.

According to independent analysts, Russian government revenue in 2006 from grain quality certification is estimated at \$250 million, with \$28 million coming from certification of exported products. The 2007 government revenue data from VPSS certification fees is not available, but sources report that traders' expenses for certifications increased significantly. Estimates of the total market value of grain and oilseed products that require VPSS

¹ The four firms are international surveyors: ZAO "SGS Vostok Limited" (a subsidiary of SGS Societe Generale de Surveillance), ZAO "Kontrol Yunion" (a subsidiary of Control Union), ZAO "Rosinspektorat" (part of the Inspectorate group of surveying companies), and OOO "Kotekna Inspekshn" (a subsidiary of Cotecna Inspection SA).

certification is difficult to measure, as certificates are required at many different stages of domestic grain handling. For example, traders and grain processors complain that in some regions these certificates are required during grain loading for shipping grain domestically². In terms of international trade values, from July 2006 through June 2007, VPSS certified more than \$3.2 billion of grain and oilseed products.

Other Relevant Reports

GAIN RS7064 Grain and Oilseeds Products Subject to Quality Control at Russian Border
<http://www.fas.usda.gov/gainfiles/200709/146292479.pdf>

GAIN RS7010 Russian Grain Inspection Update
<http://www.fas.usda.gov/gainfiles/200701/146280064.pdf>

GAIN RS6062 Grain Surveyors Accuse VPSS of Antitrust Violation
<http://www.fas.usda.gov/gainfiles/200612/146249674.pdf>

GAIN RS5082 Grain Quality Certification
<http://www.fas.usda.gov/gainfiles/200511/146131604.pdf>

GAIN RS5065 Grain Certification News
<http://www.fas.usda.gov/gainfiles/200509/146130734.pdf>

² Sources inform that since June 2007 JSC "Russian Railroads" has required quality certificates for transportation of flour by rail. This requirement forced some companies to increase the price of flour. Source: Federal Anti-monopoly Service's Letter to Russia's First Deputy General Prosecutor on the Federal Anti-monopoly Service's activities in connection with the increase in bread prices.